REMARKS

Initially, in the Office Action dated November 5, 2003, the Examiner objects to the drawings because of informalities. The abstract has been objected to because of informalities. Claims 1-20 have been rejected under 35 U.S.C. §102(e) as being unpatentable over U.S. Patent No. 6,188,698 B1 (Galand et al.).

By the present response, Applicants have amended Fig. 5 to further clarify the invention. Further, Applicants have submitted a new Abstract of the invention. Claims 1-27 remain pending in the present application.

Drawings Objections

Fig. 5 has been objected to because of informalities. Applicants have amended Fig. 5 to further clarify the invention and respectfully request that this objection be withdrawn.

Moreover, Applicants are confused as to the Examiner's statements regarding Fig. 5, steps 411 and 412. Applicants' drawings do not contain these references characters or the terms noted by the Examiner. Further, the portion cited by the Examiner, page 8, line 15 and 22, do not recite anything related to these reference characters or limitations.

Specification Objection

The Examiner has objected to the abstract of the invention. Applicants have amended the abstract to fully comply with the requirements of an abstract and respectfully request that this objection be withdrawn.

35 U.S.C. §102 Rejections

Claims 1-27 have been rejected under 35 U.S.C. §102(e) as being anticipated by Galand et al. Applicants respectfully traverse these rejections.

Galand et al. discloses a packet scheduling system for use in a switching node of a high-speed packet switching network. Incoming packets are enqueued in connection queues. Each connection is classified as red (exceeding traffic profile) or green (within traffic profile). QOS priority is also identified for each connection. Packets are dequeued for transmission as a function of priority class and connection class. Higher priority class connections have priority over lower priority class connections. Within a given priority class of connections, green connections have priority over red connections. Round robin scheduling is used for packets from connections in the same priority and connection class.

Regarding claims 1, 10 and 19, Applicants submit that Galand et al. does not disclose or suggest the limitations in the combination of each of these claims of, inter alia, operating a differentiated service network having a plurality of routers that includes determining an operating condition at a first router and propagating an indication of an operating condition at the first router to a second router, or receiving an indication of an operating condition at a first router, and adjusting at least one parameter of a constraint based on the indication of the operating condition. The Examiner appears to have taken the limitation "determining an operating condition at a first router" and broken it up into different pieces, asserting that the different pieces are disclosed in different portions of the Galand et al. reference. Specifically, the

Examiner asserts that Galand et al. discloses determining at col. 3, lines 20-22, an operating condition at col. 3, line 12, and a router as the transmit 240 of Fig. 2. However, col. 3, lines 20-22 merely disclose determining for each of the connections a priority class indicative of the quality of service. Col. 3, line 12 merely discloses a behavior classification of the plurality of connections. Further, transmit 240 of Fig. 2 is merely the transmit part of an adapter that outputs data flow from the adapter towards another node. These are all discreet portions of the disclosure of Galand et al. that have no connection together. This is not determining an operating condition at a first router, as recited in the claims of the present application. The determining referred to in col. 3, lines 20-22 does not refer to an operating condition of a router as recited in the claims of the present application, but refers to a quality of service class. Further, Applicants submit that this is an improper rejection in that the Examiner cannot simply look at the limitations in the claims of the present application and then go through one or more references to find specific words in each limitation and assert that this sporadic collection of words then anticipates the limitations in the claims of the present application. The words in each limitation in the claims must be taken together in combination for a proper rejection.

The Examiner again cuts and splices the limitation in the claims of the present application of "propagating an indication of said operating condition at said first router to a second router" by asserting that propagating is disclosed in Galand et al. at col. 3, line 32, an indication is disclosed at col. 3, line 10, and that an operating condition at the first router to a second router is disclosed by received 230 of Fig. 2

in Galand et al. Col. 3, line 32 in Galand et al. merely discloses means for transmitting packets from a higher priority, col. 3, line 10 merely discloses that the plurality of connections may be classified as red or green, and received 230 of Fig. 2 is merely the receive portion of an adapter that receives data flow entering the node. Again, these cited portions in Galand et al. have no connection with each other and do not disclose or suggest propagating an indication of an operating condition at a first router to a second router, as recited in the claims of the present application. The red or green disclosed in Galand et al. relates to classification of connections and not an indication of an operating condition at a first router, as recited in the claims of the present application. Further, the Examiner has improperly taken an access node in Galand et al. which includes a receive part 230 and a transmit part 240 and asserts that the receive part 230 is a first router and the transmit part 240 is a second router. The access node in Galand et al. is a singe network device.

Moreover, the Examiner asserts that Galand et al. discloses adjusting at least one parameter of a constraint based on an indication of an operating condition at steps 520-545 of Fig. 5A, col. 5, line 62, and packet color and behavior classification. Fig. 5A merely discloses a process of operations for classifying (red/green) connections. Steps 520-545 in Fig. 5A merely disclose the process of determining whether a round robin process is to be entered or not based on the color. Col. 5, line 62 merely includes the phrase "the process of analyzing the parameters". Again the Examiner has improperly used hindsight and picked and chosen various portions of the Galand et al. reference just based on words in the limitations in the claims of the

present application. These portions of Galand et al. do not disclose or suggest adjusting at least one parameter of a constraint based on an indication of an operating condition, as recited in the claims of the present application. Applicants respectfully request that the Examiner take the words in limitations in the claims of the present application as a whole and in combination.

Moreover, Applicants submit that the present invention and Galand et al. differ in several aspects. For example, in Galand et al. transmission is one way, from edge router to downstream. In contrast, in the present application, transmission occurs from one node to another or in another embodiment, by a centralized bandwidth broker. In addition, propagation in Galand et al. is inband, meaning, the information can only go where the packet goes because it is within the packet. In contrast, in the present application, propagation may be out-of-band because the information may be in a separate packet by itself.

Regarding claims 2-8, 11-18 and 20-27, Applicants submit that these claims are dependent on one of independent claims 1, 10 and 19 and, therefore, are patentable at least for the same reasons noted regarding these independent claims. For example, Applicants submit that Galand et al. does not disclose or suggest determining an operating condition at a third router and propagating an indication of the operating condition at the third router to a second router, or where the operating condition is a status of stability.

Accordingly, Applicants submit that Galand et al. does not disclose or suggest the limitations in the combination of each of claims 1-27 of the present application.

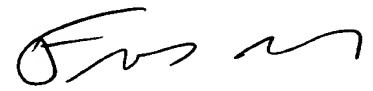
Applicants respectfully request that these rejections be withdrawn and that these claims be allowed.

In view of the foregoing amendments and remarks, Applicants submit that claims 1-27 are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested.

To the extent necessary, Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (referencing attorney docket no. 730.38192X00).

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP



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Attachment: Replacement Sheet
Annotated Sheet Showing Changes
Substitute Abstract

ANNOTATED MARKED-UP DRAWING

FIG. 5